

Judge Baker, cont.

In 2011 he joined the Board of Trustees of Garrett-Evangelical Theological Seminary in Evanston, IL, where he serves on the board's Academic Affairs committee.

Judge Baker was retained by election in 1992, 2002 and 2012. He and his wife have five children and – so far – nine grandchildren.

Judge Mathias, cont.

topics to attorneys and judges. As a member of the Judicial Technology and Automation Committee, he helped select the Odyssey Case Management System that brought the management of state court records into the 21st Century.

Judge Mathias is a longtime supporter of *We the People*, a national civics education program sponsored in Indiana by the Indiana Bar Foundation. He coaches high school *We the People* teams in Indiana's 5th Congressional District and helps organize *We the People* competitions in the 3rd Congressional District.

In 2010, he received the Indiana Bar Foundation's William G. Baker Civic Education Award for his work in civics education.

Judge Mathias has been married for more than 36 years and is the proud father of two sons who teach at the high school level. His wife, Carlabeth, is a private practice counselor for children and families and a consultant to schools throughout Indiana.

Judge Mathias enjoys Macintosh computers, technology in general and photography. He also enjoys spending many Saturdays during the school year helping to build theatrical sets for Hamilton Southeastern High School.

COURT OF APPEALS MISSION STATEMENT:

**“TO SERVE ALL PEOPLE
BY PROVIDING EQUAL
JUSTICE UNDER LAW”**

ATTORNEYS FOR THE PARTIES

For the Appellant

Alexander Hoover was born in South Bend. For his undergraduate studies, he attended Valparaiso University and graduated in 2008, majoring in biology. He went on to attend the Michigan State University College of Law and graduated in 2012. After passing the Indiana bar exam, Hoover was hired by the Law Office of Christopher G. Walter, P.C. in Nappanee, where he has worked since being hired in October 2012. In addition to Indiana state courts, he is also admitted to practice before the federal Northern District of Indiana. His practice for the firm focuses on criminal defense, family law, and real estate. Hoover also handles the firm's appellate matters and has been appointed as pauper counsel by both Elkhart and Marshall Counties for a number of criminal appeals. Hoover currently lives with his wife, Sarah, in Nappanee.

For the Appellee

Christina Pace has been employed with the Office of the Indiana Attorney General since 2014 as a Deputy Attorney General in the Criminal Appeals Section. Ms. Pace was born and raised in Morton, IL and graduated from the University of Illinois in 2006, majoring in Urban and Regional Planning and minoring in Business Administration. She earned her law degree from Indiana University School of Law -Indianapolis in 2009. Before joining the Office of the Indiana Attorney General, Ms. Pace served as a local office attorney for the Department of Child Services for three years. She lives in Westfield with her husband and daughter.

What happens after oral argument?

After oral argument, the judges confer to decide the outcome. One, called the writing judge, drafts an opinion for the others' review. Final language may involve several drafts and significant collaboration among the judges.

Generally, opinions will affirm or reverse lower court rulings in whole. But some affirm in part, some reverse in part, and some do both. Not infrequently, the opinion instructs the trial court about the next appropriate course of action.

Many opinions are unanimous, although non-unanimous decisions (2-1) are not uncommon. Dissenting judges usually express their views in a separate opinion that becomes part of the permanent record of the case. (Historically, the ideas contained in dissents have sometimes been adopted as the law of the land – over time – on a particular issue.)

Judges sometimes write separate, concurring opinions that emphasize different points of law or facts than the main opinion.

No rules or laws govern how fast the Court of Appeals must issue an opinion. But the court strives to decide cases within four months of receiving all briefs, transcripts and other records.

Once issued, all opinions are published on www.courts.in.gov and maintained in the permanent records of the Clerk of Appellate Courts.

Parties can appeal decisions of the Court of Appeals to the Indiana Supreme Court by filing a petition to transfer within a prescribed number of days. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason.

If the petition is denied, the Appeals Court decision stands.

SYNOPSIS

In November 2013, Jeffery Hunt and his father broke into the Elkhart home of an elderly couple, Don and Joan Neer. Hunt struck Don Neer on the head and body several times using a tire iron and his fists, causing Mr. Neer serious injury. Hunt and his father then looted the house, stealing among other things, guns, a television, and cash.

Hunt eventually pleaded guilty to Class A felony robbery while armed with a deadly weapon resulting in serious bodily injury, Class A felony burglary, Class B felony conspiracy to commit burglary, and Class B felony criminal confinement.

Hunt was sentenced to 50 years each for his robbery and burglary convictions, 20 years for his conspiracy to commit burglary conviction, and 20 years for his criminal confinement conviction. Hunt's robbery, burglary, and criminal confinement sentences were to be served consecutively and his conspiracy to commit burglary sentence was to be served concurrently to his criminal confinement sentence, for a total of 120 years in the Department of Correction.

The trial court found Hunt's criminal history, the age of the victims, the severity of Mr. Neer's injuries, and the egregiousness of the crime to be aggravating factors and the fact that Hunt accepted responsibility for his crime and showed remorse to be mitigating factors.

On appeal, Hunt argues that his sentence is inappropriate in light of the nature of the offense and the character of the offender.

Indiana Appellate Rule 7(B) allows this court to revise a sentence otherwise authorized by statute if, “after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.”

The principal role of our review should be to attempt to level the outliers and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, not to achieve what we per-

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Court of Appeals of Indiana

*Hearing oral argument at
Huntington University
Monday, March 23, 2015 @ 1 p.m.*



Hunt v. State
20A03-1408-CR-300

*On Appeal from Elkhart Circuit Court
The Honorable Terry C. Shewmaker, Judge*

Case synopsis, cont.

ceive to be a “correct” result in each case. *Fernbach v. State*, 954 N.E.2d 1080, 1089 (Ind. Ct. App. 2011), *trans. denied*.

The question under Appellate Rule 7 (B) is not whether another sentence is more appropriate; rather, the question is whether the sentence imposed is inappropriate. *Fonner v. State*, 876 N.E.2d 340, 344 (Ind. Ct. App. 2007). It is the defendant’s burden on appeal to persuade us that the sentence imposed by the trial court is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

Social Media and the Courts

Sometimes we’re so steeped in things we don’t really notice them. Take social media; we spend so much time texting, tweeting, Facebooking, etc., that it’s like water to a fish – just part of our world.

But Courts don’t swim so easily in that environment. After all, social media is frothy, effervescent and bubbling with **now**. Courts are sober, slow and cautious.

Nor are Courts well suited to the “anything goes” quality of so much Facebook, Twitter and YouTube content.

Yet Courts aren’t blind to technology, as proved by even a quick glance at the Indiana judiciary’s website, www.in.gov/judiciary. As further evidence, one-third of ranking Court officials who responded to a national survey on new media said they have used social media in either their professional or personal lives.

Still, the question arises: Can Courts tap the power and dynamism of new media while still honoring the integrity and responsibilities that rightly fall to America’s third great branch of government?

@incourts offers one approach to that question. Launched at the direction of former Indiana Supreme Court Chief Justice Randall Shepard, @incourts has 1,810 followers and, to date, has tweeted 637 times.

Even the U.S. Supreme Court has a Twitter account, @USSupremeCourt.

Hunt claims that his sentence is “overly punitive” and will not effectively rehabilitate him, since he will not be released from prison until he is a very old man. He also emphasizes the role his father played in convincing him to commit the burglary.

The State argues that Hunt’s sentence is not inappropriate, in light of the violence of his attack on an elderly couple, the fact that Hunt chose to burglarize the Neers’ home, even though he knew they were inside the house, and the extensiveness of his criminal history, which includes previous burglary convictions.

True, a typical Court tweet isn’t exactly “Keeping up with the Kardashians” material. But tweets and retweets about anticipated opinions or new Court procedures can be of significant service to a host of professional, media and lay people who closely follow the law and legal developments.

Having said all that, the Courts and social media aren’t exactly locked in tight embrace. According to the above-mentioned survey (conducted by the Conference of Court Public Information Officers), less than 7 percent of Courts have social media profile sites such as Facebook, and only 7 percent use Twitter or similar microblogging tools.

Ethical concerns may explain those low adoption rates. Almost half the judges who responded to the survey disagreed with the idea that they could use social media in their professional lives without compromising professional codes of conduct.

As Judge Edward W. Najam Jr., of the Court of Appeals of Indiana has said, “A court speaks through its opinions” and not through public commentary in new or old media.

As always, the future requires a “stay tuned” caveat. But who would be surprised if young people and their still-evolving dance with social media end up shaping the Courts’ approach to new media in unexpected ways?

Court Notes

■ Six of the court’s first 19 judges served in the Civil War, all as Union soldiers or officers. Judge Posey Kime, born 1896, was the first to serve in WW1.

■ Nine Court of Appeals judges have later served the Indiana Supreme Court, including current Justice Robert D. Rucker.

■ Judge Frank M. Powers served just 33 days. The longest serving judge by far is Patrick D. Sullivan Jr., at more than 16,000 days. He retired in 2007 but still serves as a senior judge.

■ One of the five original members of the court, Jeptha New, died from a self-inflicted pistol shot in 1892. His term of office was completed by his son, Willard New.

■ Another father-son pair also served on the court: Ralph N. Smith and son Russell W. Smith. An uncle-nephew pair also served: Edgar D. Crumpacker and nephew Harry L. Crumpacker.

■ Memorably named judges include Henry Clay Fox, Daniel Webster Comstock, Cassius Clay Hadley and Ira Batman.

■ Judge John C. McNutt’s son, Paul McNutt, was Indiana governor from 1933-37 and appointed two judges to the Court of Appeals.

■ One foreign-born judge attained the court: George L. Reinhard was born in Bavaria in 1843, served in the Civil War, and wrote “The Common Sense Lawyer.”

■ Judge Thomas Faulconer made Indiana history when, as a Marion County judge, he opened his courtroom doors to TV and newspaper cameras for a celebrated murder trial in 1959.

■ Judge Joseph H. Shea resigned his Appeals Court seat in 1916 to become President Woodrow Wilson’s ambassador to Chile.

■ Judge V. Sue Shields was the first woman named to the court, in 1978, and Judge (now Justice) Robert D. Rucker was the first African-American, in 1991.



**The Honorable
Melissa S. May**

**Vanderburgh
County**

Born in Elkhart, **Melissa S. May** studied criminal justice at Indiana University-South Bend before earning her law degree from Indiana University School of Law-Indianapolis in 1984. She then launched a 14-year career in private legal practice in Evansville that focused on insurance defense and personal injury litigation.

Judge May moved directly from private practice to the Court of Appeals in 1998 and was retained by election in 2000 and 2010. Prior to this year, she served as Presiding Judge of the Fourth District, which covers all of Indiana.

Judge May has long been active in local, state and national bar associations and foundations, with a particular focus on continuing legal education and appellate practice. At various times, Judge May has chaired the Indiana State Bar Association’s Litigation and Appellate Practice sections and was secretary to the Board of Governors.

As chair of the Indiana Pro Bono Commission, Judge May worked with 14 pro bono districts to train lawyers and mediators on how to assist homeowners facing foreclosure. She also serves on an Indiana Judicial Conference Committee that translated all civil jury instructions into “plain English.”

Judge May teaches trial advocacy at Indiana University McKinney School of Law and frequently speaks on legal topics to attorneys, other Judges, schools, and other professional and community organizations. She is special counsel to the American Bar Association’s Standing Committee on Attorney Specialization, on which she’s served since 2003.

In October 2011, Judge May received the Women in the Law Recognition Award from the Indiana State Bar Association for her dedication to helping women advance in the legal community.

She and her husband live in Morgan County.

Today’s Panel of Judges



**The Honorable
John G. Baker**

Monroe County

John G. Baker was named to the Court of Appeals in 1989, which makes him the longest-serving member on the current Court. He has served as Presiding Judge of the Court’s First District, which covers all of southern Indiana, and as Chief Judge of the Court from 2007-2010.

Judge Baker grew up along the Ohio River in Aurora, IN, but attended high school at Culver Military Academy in northern Indiana. He studied history at Indiana University-Bloomington, and later received his law degree from Indiana University School of Law-Bloomington.

He practiced law in Monroe County for many years before joining the Monroe County bench as first a county and later a Superior Court Judge. Diligently, he handled more than 15,000 cases in 13 ½ years on Monroe County benches, and has written more than 4,000 majority opinions for the Court of Appeals.

Judge Baker is greatly interested in the history, structure and organization of Indiana’s judicial branch of government. He regards Indiana judges not as remote figures who conduct abstract arguments, but as people fully engaged in the life of the law and their communities.

He has taught in college and law school and is active in local, state and national bar associations. In 2013, Judge Baker retired after 33 years of teaching at the School of Public and Environmental Affairs, Indiana University-Bloomington. He continues to teach during the Spring semester at the McKinney School of Law.

Judge Baker’s many community activities include his church, the YMCA and the Boy Scouts (where he attained Eagle Scout status as a youth).

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**The Honorable
Paul D. Mathias**

Allen County

Paul D. Mathias is a fifth-generation Hoosier who deeply believes that Indiana is a special place to live. He is honored to serve on the Court of Appeals, where he strives daily to reflect and protect Hoosier values within the law.

Judge Mathias practiced law in Fort Wayne, concentrating in construction law, personal injury, and appellate practice. He was appointed Referee of the Allen County Small Claims Court in 1985 and served as Judge of the Allen Superior Court from 1989-2000 when he was appointed to the Court of Appeals. In 2002 and 2012, he was retained by election to the court.

Judge Mathias’s professional achievements are rooted in a strong educational foundation. He attended the public schools in Fort Wayne, where he was a National Merit Finalist and scholarship recipient. In 1976 Judge Mathias graduated *cum laude* from Harvard University with a bachelor’s degree in General Studies, concentrating in Government. He earned his law degree in 1979 from Indiana University School of Law-Bloomington, where he was a member of the Sherman Minton Moot Court Team and the *Order of Barristers*.

Judge Mathias was an officer of the Indiana Judges Association from 1993-1999 and its president from 1997-1999. He is deeply honored to be one of only 92 Hoosiers to receive the Centennial Service Award from the Indiana State Bar Association, and he was named a Sagamore of the Wabash by two governors. Judge Mathias is keenly interested in the intersection of law and technology and often consults and speaks on tech

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